



## Disciplinary Procedure

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Type of policy:	Trust	LGB or Board approval:	Board

## 1. INTRODUCTION

The following procedure applies to all employees, permanent or temporary of The Victoria Academies Trust.

This procedure does not, however, apply to:

- Staff employed by external contractors

The procedure is intended to help the CEO and the Trust Board fulfil their responsibilities as required by the Education Reform Act 1998 with regards to disciplinary procedures. It also takes into account the appropriate provisions of the ACAS Code of Practice on Disciplinary and Grievance Procedures.

The member of staff leading any disciplinary procedure shall be of relevant seniority in the Trust. Usually it will be led by the member of the Executive leadership team who line manages the employee.

The procedure is designed to promote good and orderly employment relations, to help and encourage all employees to achieve and maintain acceptable standards of conduct, performance and attendance. This will ensure consistency and fair treatment for all and provide a fair method of dealing with alleged failures to follow those standards.

Copies of this procedure should be made available to all employees to whom this procedure applies.

This procedure has been adopted by the Victoria Academies Trust Board following consultation with the trade unions recognised by The Victoria Academies Trust.

## 2. PRINCIPLES

The procedure is based on the following principles:-

- The value of taking clear action without undue delay.
- Investigations to find out the relevant facts should be carried out promptly. The investigation should collect all relevant and supporting documents.
- The investigator should be someone without any direct involvement in the case.
- That at each stage the employee will be informed of the complaint against them personally and in writing before being interviewed under this procedure.
- The right of the employee to be present at any hearing and to be accompanied by a representative.
- The need for accurate and detailed written records throughout the procedure.
- The employee will be given an opportunity to state their case (which shall include the right of the employee or their representative to make a statement, ask questions of any witness and/or produce documents on their behalf) before decisions are reached.
- That any formal decision should be communicated to the employee in writing within three working days of a hearing.
- That the employee be notified of their right of appeal against any formal disciplinary action taken against them under the procedure.
- All information will be held in confidence and only shared with those directly involved in the case.

Action taken under this procedure shall depend upon the nature of the employee's offence, any mitigating circumstances where these may be reasonably taken into account, and if appropriate the employee's past disciplinary record. A first offence, unless it is considered to be gross misconduct, shall not normally result in dismissal but it may, depending upon the factors aforementioned, result in any other of the disciplinary penalties defined in the procedure.

Where formal action is taken in accordance with this procedure, it shall be the duty of the designated person taking such action

- to notify the employee concerned in writing of the action taken not later than three working days after the interview/meeting and to enclose all relevant documents and evidence under this procedure;
- to ensure that, if the employee has so requested, a copy of the notification is sent to the employee's representative (the designated person shall at an appropriate time inform the employee that he has the right to make such a request)

- to ensure that a copy of the notification is retained on the employee's personal file.

### 3. PROVISIONS

The disciplinary procedure contains the following provisions:-

- Reprimand
- Formal disciplinary action
- Appeal hearing.

The importance of following the procedure in all cases is stressed. Case law has shown that failure to follow an agreed procedure is prima facie unfair.

Where appropriate i.e. in the case of minor misconduct the designated person may meet the employee and may issue them with a reprimand. The reprimand shall not be seen as formal disciplinary action taken under the procedure but the employee shall be informed that if any further breaches of discipline occur or if the employee fails to attain the required standard, formal disciplinary action may be taken against them.

#### TRADE UNION OFFICIALS

Where it is alleged that an official of a trade union or professional association has committed a breach of discipline, they shall be informed of the complaint against them in accordance with the principles and the provisions of this procedure. The designated person taking disciplinary action shall notify Human Resources who shall inform the appropriate senior representative or full-time official of that trade union or professional association of the allegations before any further action is taken against the official.

#### THE ALLEGATION

Any employee alleged to have committed a disciplinary offence must be advised in writing of the allegation; the right to be accompanied at any disciplinary meeting by a Trade Union Representative or colleague and what will happen next. The timing of advice will depend on the method and type of investigation being carried out, but in all cases must take place prior to any disciplinary meeting.

#### SUSPENSION ON FULL PAY

The Executive Head/CEO or Trust Board has the authority to suspend staff on full pay. The decision to suspend on full pay should be taken only after consultation with Human Resources. Every effort should be made to enable the employee to be accompanied by a trade union representative or colleague at a suspension meeting.

Suspension is not in its self a disciplinary penalty under this procedure, nor shall it be considered formal action under this procedure. Suspension shall be with full pay and it should only be used pending investigation and action.

#### 4. THE INVESTIGATION

An appropriate person will be appointed to undertake an investigation. The purpose of the investigation is to establish the facts before memories fade. Any witness statements should be taken promptly and all aspects of the investigation should be recorded in writing.

The Investigator may require the employee to answer questions in person; the employee may be accompanied at the meeting by a work colleague or trade union representative. Where the investigation requires the direct questioning of other employees, they should be advised that the questioning relates to a formal investigation, the outcome of which could result in their statement being used or in their being called as a witness at any subsequent disciplinary meeting.

Any investigation should be treated as a priority and wherever possible should be completed within 8 working weeks. In most cases, investigations will take much less time, but in cases of alleged Gross Misconduct, if a longer period is anticipated the employee and his/her representative must be informed with reasons for the delay.

When an investigation has been completed, the Investigator will prepare a written report for the Executive Head/CEO or Trust Board for them to consider whether there is sufficient evidence to proceed to a disciplinary hearing.

If the decision is made to proceed to a disciplinary hearing, the letter confirming this will restate the allegations and give notification of the proposed date of the hearing.

If the decision is made not to proceed to a disciplinary hearing, a letter confirming this will be sent to the employee, setting out the reasons for not proceeding.

#### 5. THE SANCTIONS

In accordance with the procedure and in the event of the employee being found blameworthy, the following will be considered:-

- Formal (Recorded) Verbal Warning
- Formal (Written) Warning
- Severe Warning
- Final Warning
- Dismissal

## 6. PROCEDURE FOR A DISCIPLINARY MEETING

Following an investigation of the allegations against an employee if the Executive Head/CEO or Trust Board /designated person feels that the employee has a case to answer a disciplinary meeting will be arranged. If in the opinion of the Executive Head/CEO or Trust Board /designated person the allegations if sustained would warrant a final warning or dismissal, the matter shall be referred to the appropriate member of ELT/Trust Board/Disciplinary Committee (if the hearing is being conducted by the Disciplinary Committee a representative of the Trust must be present at the meeting).

The employee and his/her representative shall be given not less than 10 working days notice of the date, time and place of the disciplinary meeting. A copy of all documentation to be considered at the hearing and a list of witnesses who will be called by the management side will be sent to the employee with the calling notice.

If the employee wishes to call witnesses to give evidence on his/her behalf, it is the employees responsibility to inform the witnesses of the date and time of the hearing. If the witnesses are employees of the Victoria Academies Trust their names should be provided to Human Resource not later than three working days before the hearing to enable arrangements to be made for their release from duty.

If the employee cannot attend a meeting they should inform Human Resource in advance wherever possible. If the employee fails to attend through circumstances beyond their control a further meeting will be arranged. If the employees representative cannot attend on the proposed date, the employee can propose another date as long as it is reasonable and is not more than 5 working days after the date originally proposed (this limit may be extended by mutual agreement). If an employee fails to attend a meeting without good reason a decision may made in their absence on the evidence available. The meeting shall be in accordance with the following procedure:-

1. The evidence shall be presented in the presence of the employee and his/her representative and witnesses may be called.
2. The employee (or his/her representative) shall have the opportunity to ask questions of the witnesses on the evidence given by them.
3. The Member of ELT/Board/Disciplinary Committee shall have the opportunity to ask questions of the presenter and his/her witnesses.
4. The employee (or his/her representative) shall put his/her case in the presence of the presenter and may call such witnesses as he/she wishes.
5. The presenter shall have the opportunity to ask questions of the employee and his/her witnesses.
6. The Member of ELT/Board/Disciplinary Committee shall have the opportunity to ask questions of the employee and his/her witnesses.
7. The presenter and the employee (or his/ her representative) shall have the opportunity to sum up their case if they so wish.
8. The presenter, the employee and his/her representative shall withdraw.

9. The Member of ELT/Board/Disciplinary Committee and Human Resources representative (and where appropriate a representative of the Trust) shall deliberate in private, only recalling the presenter and the employee (and his/her representative) to clear points of uncertainty on evidence already given. If recall is necessary, both parties shall return notwithstanding only one is concerned with the point giving rise to doubt.
10. The Member of ELT/Board/Disciplinary Committee shall announce the decision to the presenter and the employee (and his/her representative) personally.

## 7. SANCTIONS IN DETAIL

### Formal (Recorded) Verbal Warning

Where appropriate e.g. where a member of staff has not heeded previous informal warning, or where the offence is such that it would warrant a formal verbal warning, the Executive Head/CEO or Trust Board will following investigation of the allegations meet with the member of staff his/her representative in accordance with the procedure for a disciplinary meeting. If, in his/her opinion, such action is justified, the Executive Head/CEO or Trust Board shall issue a formal verbal warning to the employee that his/her conduct/capability is not acceptable and that a further offence, within a specified period (which shall not exceed four months) will lead to further disciplinary action against him/her.

The issue of such a warning shall be notified in writing to the employee and a copy of the letter shall be retained on the employee's personal file. At the meeting and in the subsequent written notification, the Executive Head/CEO or Trust Board shall inform the employee that he/she has a right of appeal to the Appeals Committee and that if he/she wishes to exercise that right, he/she must do so in writing to Human Resources within 10 working days of the notification of the decision in writing. The letter to Human Resources should set out the grounds for the appeal.

### Formal (Written) Warning

Where appropriate e.g. where an employee has not heeded previous verbal warnings or where the offence is such that it would warrant a formal (written) warning.

Where appropriate, following an investigation of the allegations the Executive Head/CEO or Trust Board, may meet with the employee with his/her representative, in accordance with the procedure for a disciplinary meeting, and if in his/her opinion the allegations are substantiated, issue a formal (written) warning to the employee that his/her conduct/capability is not acceptable and that a further offence within a specified period (which shall not exceed eight months) will need to further disciplinary action against him/her.

The issue of this warning shall be notified in writing to the employee by Human Resources and a copy of the letter shall be retained on the employee's personal file for the specified period. At the meeting and in the subsequent written notification Human Resources shall inform the employee that he/she has a right of appeal to the Appeals Committee and that if he/she wishes to exercise that right, he/she must do so in writing to Human Resources within

10 working days of the notification of the decision in writing and set out the grounds for the appeal.

### Severe Warning

Where appropriate e.g. where an employee has not heeded a previous formal written warning, or that the alleged offence is such that it would warrant a severe warning, following investigation of the allegations the Executive Head/CEO or Trust Board shall meet with the employee with his/her representative, in accordance with the procedure for a disciplinary meeting and if in his/her opinion the allegations are substantiated, the Executive Head/CEO or Trust Board shall issue a severe warning to the employee that his/her conduct/capability is not acceptable and that a further offence within a specified period (which shall not exceed 12 months) would lead to further disciplinary action being taken against him/her.

The issue of the severe warning shall be notified in writing to the employee by Human Resources and a copy of the letter shall be retained on the employee's personal file for the stated period. At the meeting and in the subsequent written notification, Human Resources shall inform the employee that he/she has a right of appeal to the Appeals Committee and that if he/she wishes to exercise that right, he/she must do so in writing to Human Resources within 10 working days of the notification of the decision in writing and set out the grounds for the appeal.

### Final Warning

Where appropriate e.g. where an employee has not heeded a previous severe warning, or that where the alleged offence is such to warrant a final warning, the designated person, after investigation of the allegations, shall if he/she considers that the employee has a case to answer and that if substantiated the allegations would warrant a final warning, refer the matter to the Executive Head/CEO or Trust Board

1. The procedure for the meeting of the Disciplinary Committee (made up of Academy Councillor/Trust board and ELT members, according to position of the member of staff and knowledge of the alleged incident) to consider the case is detailed in section headed Procedure for disciplinary Meeting.
2. If, in the Disciplinary Committee's opinion, the allegations are substantiated, the Executive Head/CEO/Chair of Trust/Disciplinary Committee shall issue a final warning to the employee that his/her conduct/capability is not acceptable and that a further offence within a specified period (which shall not exceed 24 months) will lead to the implementation of the procedure for dismissal.
3. The issue of the final warning shall be notified in writing to the employee by Human Resources and a copy shall be retained on the employee's personal file for the specified period. At the meeting and in the subsequent written notification, the employee shall be informed that he/she has the right of appeal to the Appeals Committee and that if he/she wishes to exercise that right he/she must do so in writing to Human Resources within 10 working days of the written notification of the decision and set out the grounds for the appeal.

## Dismissal

Where an employee has not heeded the final warning or where it is alleged that he/she has committed an act of gross misconduct he/she shall be interviewed and informed of the allegations against him/ her. In the case of alleged gross misconduct, the employee shall be suspended forthwith from duty.

If after investigation of the allegations the Executive Headteacher/CEO/Trust Board considers that the employee does not have a case to answer suspension will be lifted and the employee shall return to his/her normal duties. If after such investigations the Executive Headteacher/CEO/Trust Board considers that the employee does have a case to answer, a meeting with the Executive Headteacher/CEO/Trust Board/Disciplinary Committee will be arranged.

The procedure for the meeting with Executive Headteacher/CEO/Trust Board/Disciplinary Committee to consider the case is detailed in section headed Procedure for Disciplinary Meeting.

If the Executive Headteacher/CEO/Trust Board/Disciplinary Committee find that the allegations are substantiated he shall have the power to inform the employee that, subject to any appeal that he/she may wish to make, a notification will be issued to Human Resources to dismiss the employee. In the case of gross misconduct, the employee shall be informed that his/her dismissal would be effective without notice and that the date of dismissal would be on the date that the decision is notified to him/her in writing by Human Resources. In other cases, the employee shall be dismissed with the notice prescribed in his/her Contract of Employment and such notice shall be effective from the date upon which the decision is communicated to him/her in writing by Human Resources.

Alternatively the Executive Headteacher/CEO/Trust Board/Disciplinary Committee may find the employee blameless or may choose to impose any lesser penalty as provided for in the procedure.

The decision of the Executive Headteacher/CEO/Trust Board/Disciplinary Committee shall be notified in writing to the employee by Human Resources and a copy shall be retained on the employee's personal file. At the meeting and in the subsequent notification to the employee, the employee shall be informed that he/she has a right of appeal to the Appeals Committee and that if he/she wishes to exercise the right he/she must do so in writing to Human Resources within 10 working days of the written notification of the decision and must set out the grounds for the appeal.

If the Executive Headteacher/CEO/Trust Board/Disciplinary Committee has made a determination that the employee be dismissed and no appeal is made by the employee, Human Resources shall dismiss the employee within 14 days or the expiry of the period that the employee had to make his/her appeal. The notification shall be made in writing and a copy will be retained on the employee's personal file.

## 8. APPEALS

### General

- The procedure provides a right of appeal against formal disciplinary action against an employee and defines the manner in which the right of appeal is to be exercised. Upon written notification that an employee wishes to exercise his/her right of appeal, Human Resources shall acknowledge receipt of this notification. In normal circumstances the appeal shall be heard not later than 30 working days after receipt of the written notification of appeal.
- The employee should state when appealing the grounds on which the appeal is being made, i.e. whether the employee is appealing against the allegations being substantiated or against the severity of the disciplinary action taken against him/her.
- No person involved in making the decision against which the appeal is made shall be involved in deciding the appeal.
- The procedure for the appeal is given below.

## 9. PROCEDURE FOR THE APPEAL HEARING

If the Executive Head/CEO or Trust Board issues an employee with a Formal (Recorded) Verbal Warning, a Formal Written Warning or a Severe Warning, an employee can appeal against the decision, the matter shall be dealt with by the Appeals Committee.

If Executive Head/CEO/Chair of Trust/Disciplinary Committee issues an employee with a Final Warning or dismisses the employee, the employee can appeal against the decision, the matter shall be dealt with by the Appeals Committee.

The employee and his/her representative shall be given not less than ten working days' notice of the date, time and place of the appeal meeting. The Committee shall hear the case in accordance with the following procedure:

1. The appellant (or his/her representative) shall put his case in the presence of the Member of ELT Head/Head Teacher and may call such witnesses as he wishes.
2. Member of ELT Head/Head Teacher shall have the opportunity to ask questions of the appellant and his/her witnesses.
3. The Committee shall have the opportunity to ask questions of the appellant and his/her witnesses.
4. The Member of ELT Head/Head Teacher shall put the case in the presence of the appellant and his/her representative and may call witnesses.
5. The appellant (or his/her representative) shall have the opportunity to ask questions of the Member of ELT Head/Head Teacher and the witnesses called by the Member of ELT Head/Head Teacher on the evidence given by them.

6. The Committee shall have the opportunity to ask questions of the witnesses of the Member of ELT Head/Head Teacher person and his/her witnesses.
7. The Member of ELT Head/Head Teacher and the appellant (or his/ her representative) shall have the opportunity to sum their cases if they so wish.
8. The Member of ELT Head/Head Teacher and the appellant and his/ her representative and the witnesses shall withdraw.
9. The Committee and Human Resources representative shall deliberate in private only recalling the Member of ELT Head/Head Teacher and the appellant (and his/her representative) to clear points of uncertainty on evidence already given. If recall is necessary both parties shall return notwithstanding only one is concerned with the point giving rise to doubt.
10. The Committee shall announce the decision to the Member of ELT Head/Head Teacher and the appellant (and his/her representative) personally).

The decision of the Committee shall be notified in writing to the appellant by Human Resources and a copy of the letter shall be retained on the employee's personal file. There shall be no further right of appeal under this procedure. However, nothing in this procedure shall be construed to limit an employee's rights under the Employment Protection (Consolidation) Act, 1978 or any other enactment.

#### 10. RECORDS

- (a) In order that comprehensive records are maintained, copies of all notes/minutes and correspondence arising out of the operation of this procedure shall be retained on the employee's personal file for the period that the sanction is live.
- (b) In considering action under this procedure the appropriate designated person shall take no account of previous disciplinary action unless the offence for which action is being considered has taken place during the specified period attached to the previous disciplinary action.
- (c) Where an employee is subject to disciplinary action or appeals against disciplinary action being taken, he/she may if he/she so requests, have sight of or copies of any relevant documents contained in his/her personal file. Such a request shall be made in writing to Human Resources. The employee shall be allowed sight of the documents or supplied with copies of the documents within three working days of the request.
- (d) Notes and minutes of all proceedings to be kept together with the outcome of all decisions.

## 11. MONITORING

This procedure will be monitored to collect information in order to analyse trends and produce statistics.

All information will be held in the strictest confidence.

## 12. GLOSSARY OF TERMS

'Representative' - an employee is entitled to be accompanied by a colleague, or Trade Union Representative (an official employed by a Trade Union or a lay trade union official, as long as they have been reasonably certified in writing by their union as having experience of, or having received training in acting as a workers companion at disciplinary meetings) if they wish. When calling an employee to a disciplinary meeting he/she must always be informed of that right.

'Working days' – days when the employee would normally be expected to attend for work.

'Suspension from Duty' means suspension on full pay without prejudice to enable allegations to be investigated. Suspension is not in itself a disciplinary penalty under this procedure, nor shall it be considered formal action under this procedure. Suspension shall be with full pay and it should only be used pending investigation and action.

'Appeals Committee' means a Committee consisting of a minimum of 3 members, members of the Academy Councils/Trust Board who have had no prior involvement in the case.

'Personal File' means that file maintained by the Academy relating to the specific individual concerned.